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**IN THE
COURT OF APPEALS OF INDIANA**

ANDRE SASSEVILLE,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 45A03-0703-CR-116
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE LAKE COUNTY SUPERIOR COURT
The Honorable Thomas P. Stefaniak, Jr., Judge
Cause No. 45G04-0511-FC-00149

OCTOBER 9, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBERTSON, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Andre Sasseville (“Sasseville”) appeals from the revocation of his probation.

We affirm.

ISSUE

Sasseville states the issue as: “Whether the trial court abused its discretion by executing the appellant’s entire suspended sentence?”

FACTS

The event which precipitated this appeal was that Sasseville fondled the penis of his three-year old grandson. Sasseville entered a guilty plea to the Class D felony of sexual battery pursuant to a plea agreement, and was sentenced to six months executed and two and a half years of probation. Terms of Sasseville’s plea which are relevant to the present appeal are that Sasseville was ordered to maintain a verifiable residence in Lake County and to attend, actively participate in, and successfully complete a court-approved sex offender treatment program. A petition to revoke probation was filed alleging that Sasseville failed to maintain a verifiable residence and was not in compliance with the sex offender treatment program condition. At the hearing on the petition to revoke, the parties stipulated to both allegations of the petition to revoke. The trial court ordered thirty months of probation revoked, and sentenced Sasseville to serve the previously suspended sentence.

Additional facts will be added as needed.

DISCUSSION AND DECISION

A probation revocation hearing is in the nature of a civil proceeding and the decision to revoke is a matter within the sound discretion of the trial court. *Dawson v. State*, 751 N.E.2d 812, 814-5 (Ind. Ct. App. 2001). The State must prove the alleged violation only by a preponderance of the evidence. *Id.* When reviewing the determination that a probation violation occurred, we neither reweigh the evidence nor reassess witness credibility. *Marsh v. State*, 818 N.E.2d 143, 148 (Ind. Ct. App. 2004). Instead, we look at the evidence most favorable to the probation court's judgment and determine whether there is substantial evidence of probative value supporting revocation. *Id.* If so, we will affirm. *Id.* If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any terms of probation we will affirm its decision to revoke probation. *Brabandt v. State*, 797 N.E.2d 855, 861 (Ind. Ct. App. 2003).

As mentioned above, the State and Sasseville stipulated that the alleged violations occurred. The record is more than sufficient to sustain the probation court's decision to revoke the sentence.

The essence of Sasseville's argument is an attempt to explain that financial difficulties prevented him from completing his sex offender treatment program and prompted his frequent overnight stays with his wife at the motel in which she lived, instead of at his father's residence, which was the address provided to his probation officer and therapist.

The trial court said the following at the revocation hearing:

And even if you take the noncompliance with sex offender treatment off the table and chalk it up to a financial issue, financial conflict with the provider, which I don't think is really what is going on there, but even if you chalked it up to that, the fact of the matter is by deceit and by the lies and by not maintaining your residence as you were required to do, you have proven to be a risk. That is a risk factor that causes me great concern, concern for other prospective young children.

I wish I had an alternative and a cure all solution to your problem and your family's problem. The fact of the matter is that I do not.

In undertaking my role as a community protector, I conclude that probation is not stringent enough to monitor you. I am aware of no other situation a bit more stringent than probation to place you in to get you the help that you need.

Appellant's App. p. 105.

Sasseville takes umbrage at the trial judge's suggestion that he had no other alternatives. Ind. Code §35-38-2-3(g) provides that if a defendant has violated a condition of probation before termination of the probationary period, the court may order a continuation of the probation, or extend the probation for up to a year, or revoke some, or all, of the suspended sentence. Sasseville says that these alternatives are available. However, we think that the trial court meant that the factual situation that Sasseville represented to the trial court left no other adequate solution. It is obvious from the trial judge's comments that Sasseville's credibility and the nature of his offense required incarceration.

Sasseville also seeks to have us review his sentence under Ind. Appellate Rule 7(B). That rule requires us to review the appropriateness of a sentence in light of the nature of the offense and the character of the offender. When reviewing a trial court's

decision to order a defendant's previously suspended sentence to be executed after revoking probation, we will not review the propriety of an original sentence. *See Abernathy v. State*, 852 N.E.2d 1016, 1020 (Ind. Ct. App. 2006).

CONCLUSION

The trial judge did not abuse his discretion in imposing the previously suspended portion of Sasseville's sentence after revoking Sasseville's probation.

Judgment affirmed.

BAKER, C.J., and BARNES, J., concur.